



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0807; FRL-9991-46-Region 4]

Air Plan Approval; Kentucky; Jefferson County Existing and New VOC Water Separators

Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve two revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (KDAQ), through a letter dated March 15, 2018. The changes were submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (LMAPCD) (also referred to herein as Jefferson County) and make minor ministerial amendments to applicability dates and clarify standards applicable to both existing and new volatile organic compounds (VOC) water separators. EPA is proposing to approve these changes because they are consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2018-0807 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Proposing?

Through a letter dated March 15, 2018, KDAQ provided SIP revisions to EPA for the approval of changes to the Jefferson County Regulations 6.26 and 7.36.¹ EPA is proposing to approve the changes to Jefferson County Regulation 6.26, *Standards of Performance for Existing Volatile Organic Compound Water Separators*, and Regulation 7.36, *Standards of Performance for New Volatile Organic Compound Water Separators*. The SIP revisions update the current SIP-approved versions of Regulation 6.26 (Version 2) and Regulation 7.36 (Version 3) to

¹ EPA notes that the Agency received this SIP revision on March 23, 2018, along with other revisions to the Jefferson County portion of the Kentucky SIP. EPA will be considering action for those SIP revisions in a separate rulemaking.

Version 3 and Version 4, respectively. The changes that are being proposed for approval in this rulemaking, and EPA's rationale for proposing approval, are described in more detail below.

II. EPA's Analysis of the State Submittal

The changes to Jefferson County Air Quality Regulations 6.26 and 7.36 are administrative in nature. The amendments to each regulation's Section 1, *Applicability*, better align the two regulations, reconciling and clarifying their respective applicability based on the date of a facility's existence, construction, modification, or reconstruction. In the current SIP-approved versions, the regulations' applicability overlaps by approximately four years, with Regulation 6.26 covering facilities built before that regulation's original effective date (which is September 1, 1976), and Regulation 7.36 covering facilities built on or after that regulation's original effective date (which is April 19, 1972). Previously, the regulations' *Applicability* sections both referenced the "effective date of this regulation." Jefferson County has changed both regulations to identify specifically the relevant applicability date, April 19, 1972. Regulation 6.26, *Standards of Performance for Existing Volatile Organic Compound Water Separators*, applies to VOC water separators that commenced construction, modification, or reconstruction on or before April 19, 1972. Regulation 7.36, *Standards of Performance for New Volatile Organic Compound Water Separators*, applies to VOC water separators that commenced construction, modification, or reconstruction after April 19, 1972. The addition of the specific date is an administrative change that clarifies the applicability of Regulations 6.26 and 7.36.

III. Why is EPA proposing this action?

The March 15, 2018, SIP revisions that are the subject of this proposed rulemaking address the overlap of four years between the applicability dates of standards for new and

existing VOC water separators. The SIP revisions clarify the regulations' applicability by eliminating the date overlap. They also clarify that all VOC water separators, whether in being as of April 19, 1972, or having commenced construction, modification or reconstruction after this specified date, are subject to a regulation. EPA preliminarily agrees that these changes make the regulations for VOC water separators clearer and therefore is proposing approval of these changes to the Kentucky SIP. EPA views these changes as administrative in nature and does not anticipate that they will result in a change in emissions.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference changes to the Louisville Metro Air Pollution Control District portion of the Kentucky SIP at Regulation 6.26, *Standards of Performance for Existing Volatile Organic Compound Water Separators*, Version 3, and Regulation 7.36, *Standards of Performance for New Volatile Organic Compound Water Separators*, Version 4, state effective January 17, 2018. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve the aforementioned changes to the Jefferson County portion of the Kentucky SIP because the changes are consistent with section 110 of the CAA and will not interfere with the NAAQS or any other applicable requirement of the Act. The changes are administrative in nature and clarify the regulations' applicability.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 18, 2019.

Mary S. Walker,
Acting Regional Administrator,
Region 4.

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